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August 31, 2006

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Counsel for the Official Committee Of
 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

BK-S-06-10725-LBR
 Chapter 11

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

BK-S-06-10726-LBR
 Chapter 11

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,
 Debtor.

BK-S-06-10727-LBR
 Chapter 11

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

BK-S-06-10728-LBR
 Chapter 11

In re:
 USA SECURITIES, LLC,
 Debtor.

BK-S-06-10729-LBR
 Chapter 11

Affects

- ☐ All Debtors
☐ USA Commercial Mortgage Co.
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed
☒ USA First Trust Deed Fund, LLC

Date: September 28, 2006
 Time: 9:30 a.m.
 Place: Courtroom #1

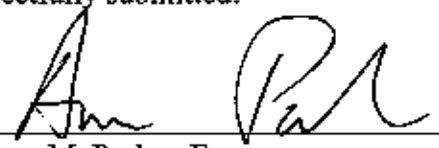
**FIRST INTERIM APPLICATION OF STUTMAN, TREISTER & GLATT P.C. AS
 COUNSEL FOR THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS
 OF USA CAPITAL FIRST TRUST DEED FUND, LLC FOR ALLOWANCE AND
 PAYMENT OF FEES AND EXPENSES FOR THE PERIOD FROM MAY 10, 2006
 THROUGH JULY 31, 2006 (AFFECTS USA CAPITAL FIRST TRUST DEED FUND,
 LLC)**

1 Stutman, Treister & Glatt Professional Corporation ("ST&G"), counsel for the
 2 Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the
 3 "FTD Fund Committee") in the above captioned chapter 11 cases (the "Chapter 11 Cases"), hereby
 4 submits its First Interim Fee Application (the "Application"). By this Application, ST&G requests
 5 approval of an interim award of \$563,338.50 in compensation for services rendered and
 6 reimbursement of \$32,336.51 for costs incurred during ST&G's representation of the FTD Fund
 7 Committee during the period from May 10, 2006 through July 31, 2006 (the "First Interim
 8 Period").

9 This Application is made pursuant to sections 330 and 331 of Title 11 of the
 10 United States Code ("Bankruptcy Code"), Rule 2016(a) of the Federal Rules of Bankruptcy
 11 Procedure ("Bankruptcy Rule"), Rule 2016 of the Local Rules of Bankruptcy Practice, and the
 12 United States Trustee Guidelines for Reviewing Applications for Compensation and
 13 Reimbursement of Expenses Filed under 11 U.S.C. § 330 (the "UST Guidelines") and is based
 14 upon the points and authorities which follow, the exhibits annexed hereto, the pleadings, papers
 15 or other matters contained in the Court's file, judicial notice of which is respectfully requested,
 16 and any oral argument of counsel to be presented at the time of the hearing on this Application.

17
 18 Respectfully submitted:

19
 20 Dated: August 31, 2006

21 
 22 Andrew M. Parlen, Esq.
 23 Stutman, Treister & Glatt
 24 Professional Corporation
 25 Counsel to the Official Committee of Equity
 26 Security Holders of USA Capital First Trust Deed
 27 Fund, LLC
 28

I. SUMMARY OF APPLICATION

A. Summary of Fees Incurred from May 10, 2006 through July 31, 2006

Name	Position	Hours Billed this Period	Rate	Total for Period
Jeffrey H. Davidson	Shareholder	61.1	\$650.00	\$39,715.00
George C. Webster	Shareholder	4.0	\$640.00	\$2,560.00
Frank A. Merola	Shareholder	105.7	\$575.00	\$60,777.50
Ronald L. Fein	Shareholder	0.8	\$725.00	\$580.00
Eve H. Karasik	Shareholder	436.0	\$550.00	\$238,800.00
George M. Treister	Of Counsel	0.7	\$725.00	\$507.50
Christine M. Pajak	Associate	353.3	\$350.00	\$123,655.00
Gina M. Najolia	Associate	16.5	\$325.00	\$5,362.50
Andrew M. Parlen	Associate	250.2	\$295.00	\$73,809.00
Alexander F. Porter	Law Clerk	2.3	\$150.00	\$345.00
David M. Telfer	Law Clerk	1.3	\$150.00	\$195.00
Kendra A. Johnson	Paralegal	70.2	\$180.00	\$12,636.00
Jeff M. Fleiss	Paralegal	0.1	\$180.00	\$18.00
Case Clerk	Case Clerk	56.3	\$60.00	\$3,378.00

<u>Total Hours</u>	<u>Total Fees</u>	<u>Blended Rate (Including Paraprofessional Time)</u>
1,358.5	\$563,338.50	\$414.68
<u>Total Hours</u>	<u>Total Fees</u>	<u>Blended Rate (Excluding Paraprofessional Time)</u>
1,228.3	\$546,766.50	\$445.14

B. Summary of Expenses Incurred from May 10, 2006 through July 31, 2006

Expense	Rate	Total
Air Fare	Actual costs (coach class)	\$2,292.70
Air Freight	Actual costs	\$179.17
Airport Transportation	Actual costs	\$681.20
Business Meals	Actual costs	\$183.19
Car Rental	Actual costs	\$359.14
Computer Research Expense	Actual costs	\$2,253.95
Copy Production	\$0.25 per page	\$19,910.50
Document Processing	Actual cost	\$456.17
Fax In/Fax Out	\$0.50 per page	\$86.00
Hotel	Actual cost	\$2,273.17
Long Distance Telephone	Actual cost	\$2,011.07
Parking Expense	Actual cost	\$157.32
Parking Validation	Actual cost	\$48.00
Postage	Actual cost	\$1,347.93
Taxi	Actual cost	\$55.00
UCC Search	Actual cost	\$42.00
Total		\$32,336.51

POINTS AND AUTHORITIES

II. STATEMENT OF FACTS

C. General Background

1. On April 13, 2006 (the "Petition Date"), USA Commercial Mortgage Company ("USACM"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital Diversified Trust Deed Fund, LLC (the "DTD Fund"), and USA Capital First Trust Deed Fund, LLC (the "FTD Fund" and collectively with USA Mortgage, USA Securities, USA Realty, and the DTD Fund, the "Debtors") filed voluntary petitions for relief under chapter 11 the Bankruptcy Code.

2. Thereafter, on May 9, 2006, this Court entered its "Order Regarding Joint Administration Without Substantive Consolidation" [docket no. 184] whereby the Court ordered that the foregoing Chapter 11 Cases be jointly administered under the name of USA Commercial Mortgage Company, bankruptcy case number BK-S-06-10725-LBR.

3. No trustee or examiner has been appointed in the Chapter 11 Cases. Rather, the Debtors continue to operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. On May 10, 2006, the Office of the United States Trustee (the "U.S. Trustee") appointed four separate committees in these Chapter 11 Cases: (i) the FTD Fund Committee; (ii) the Official Committee of Holders of Executory Contract Rights through USA Commercial Mortgage Company (the "Direct Lender Committee"); (iii) the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (the "DTD Fund Committee"); and (iv) the Official Unsecured Creditors' Committee for USA Commercial Mortgage Company (the "Unsecured Creditors' Committee").¹

¹ The FTD Fund Committee, the DTD Fund Committee, the Direct Lender Committee, and the Unsecured Creditors' Committee are collectively referred to herein as the "Committees." When referring to the Committees aside from the FTD Fund Committee, this Application uses the term "Other Committees." When referring to the Committees aside from the Unsecured Creditors Committee, this Application uses the term "Investor Committees."

1 5. The FTD Fund Committee represents the interests of those persons who
2 invested in the FTD Fund (the "FTD Fund Members"), while the DTD Fund Committee
3 represents the interests of those persons who invested in the DTD Fund. The Direct Lender
4 Committee represents approximately three thousand six hundred (3,600) parties-in-interest
5 (the "Direct Lenders") that have individually lent monies directly to various borrowers, for
6 which USACM is the loan servicer. Finally, the Unsecured Creditors' Committee represents
7 the interests of those individuals who assert general unsecured claims against USACM.

8 6. On May 18, 2006, the Investor Committees filed the "Application by the
9 Official Investor Committees to Employ Stutman, Treister & Glatt P.C. as Counsel for Matters
10 of Common Interest" (the "ST&G Employment Application") [Docket no. 280]. The ST&G
11 Employment Application requested that the Court approve the employment of ST&G as counsel
12 to the Investor Committees in matters of common interest *nunc pro tunc* as of May 10, 2006, or,
13 in the alternative, that the Court approve the employment of ST&G as counsel to the FTD Fund
14 Committee *nunc pro tunc* as of May 10, 2006.

15 7. In light of potential conflicts of interest among the Investor Committees,
16 the ST&G Employment Application was amended on May 26, 2006, which amendment
17 requested that the Court authorize the FTD Fund Committee to employ ST&G as special
18 bankruptcy counsel *nunc pro tunc* as of May 10, 2006 with compensation at the expense of the
19 FTD Fund estate in such amount as the Court may allow upon notice and hearing [Docket no.
20 397]. By order dated June 19, 2006, the Court approved employment of ST&G as special
21 bankruptcy counsel to the FTD Fund Committee effective May 10, 2006 under the terms set
22 forth in the ST&G Employment Application, as amended [Docket no. 700].

23 8. This Application contains the total amount owed to ST&G for services
24 rendered and for reimbursement of expenses incurred as special bankruptcy counsel to the FTD
25 Fund Committee for the First Interim Period. This is ST&G's first interim application for
26 allowance and payment of compensation for professional services rendered and for
27 reimbursement of actual and necessary costs incurred on behalf of the FTD Fund Committee
28

1 pursuant to 11 U.S.C. § 1103.²

2 9. ST&G requests the allowance of \$563,338.50³ as interim compensation
3 for services rendered for the First Interim Period, together with interim costs in the sum of
4 \$32,336.51, for a total interim award of \$595,675.01. ST&G requests that the FTD Fund pay
5 ST&G 100% of the unpaid balance of these fees and expenses.

6 10. ST&G makes this Application pursuant to 11 U.S.C. §§ 330, 331 and
7 Bankruptcy Rule 2016(a). This Court has jurisdiction to consider this Application pursuant to 28
8 U.S.C. §§ 157 and 1334. Venue of this proceeding is proper in this district pursuant to 28 U.S.C.
9 §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

10 **D. Professional Services Rendered**

11 11. These are complex chapter 11 cases, and the FTD Fund Committee has
12 been intimately involved in the proceedings thus far. In order to avoid duplication, ST&G refers
13 the Court and parties in interest reviewing this Application to the case summary prepared by
14 Shea & Carlyon, Ltd. ("S&C"), the FTD Fund Committee's special (Nevada) counsel, which is
15 included in S&C's first interim fee application (the "S&C Application") filed on August 25, 2006
16 [Docket no. 1193]. As set forth in the S&C Application and as reflected in the task summaries
17 below, ST&G, along with S&C, has worked zealously to assist the FTD Fund Committee in
18 fulfilling its fiduciary duties in these cases, to respond promptly and effectively to events relating
19 to the FTD Fund's chapter 11 case, and to investigate potential avenues to achieving the highest
20 possible recovery for FTD Fund Members. ST&G, along with S&C, has also worked diligently
21

22 ² Pursuant to the "Administrative Order Establishing Procedures for Interim Compensation and
23 Reimbursement of Expenses of Professionals" (the "Interim Compensation Order"), ST&G's
24 first fee statement (covering the period from May 10, 2006 through July 31, 2006) was
25 circulated on August 25, 2006 (the "Fee Statement"). Reviewing Parties (as defined in the
26 Interim Compensation Order) have until September 15, 2006 to review and, if appropriate,
27 object to ST&G's Fee Statement. ST&G has not yet been paid any fees or reimbursed for any
expenses on account of services rendered and expenses incurred as special bankruptcy counsel
to the FTD Fund Committee.

28 ³ ST&G is seeking an additional \$690.00 in fees for services rendered during the First Interim
Period that were not previously included in ST&G's Fee Statement.

to avoid unnecessary duplicative efforts.

12. Set forth below is a chart that summarizes the fees that ST&G has incurred in providing services to the FTD Fund Committee during the First Interim Period and is organized by the categories established by the UST Guidelines for billing in these Chapter 11 cases.

Billing Category	Amount
Case Administration – 010	\$109,866.00
Meetings and Communications with Creditors – 020	\$169,906.00
General Business Operations – 030	\$7,595.00
Fee/Employment Applications – 040	\$33,024.50
Fee/Employment Objections – 050	\$16,452.00
Financing – 060	\$33,668.50
Claims Administration & Objections – 070	\$11,685.50
Asset Analysis and Recovery – 080	\$51,367.00
Asset Disposition – 090	\$51,246.00
Plan/Disclosure Statement – 100	\$45,388.00
Employee Benefits/Plans – 110	\$0.00
Litigation - 120	\$29,212.00
Relief from Stay Proceedings – 125	\$3,928.00
Total	\$563,338.50

Detailed statements of professional services rendered and reimbursable expenses incurred for the First Interim Period are attached respectively as Exhibits "1" and "2" hereto and incorporated herein by reference.⁴ These statements are organized by the categories set forth below, and a

⁴ Some of the services rendered could reasonably be categorized in more than one of the billing categories. Consequently, different attorneys sometimes billed their services on the same matter in different categories. In no event were any time entries for a single task by one attorney duplicated.

1 narrative description of each such category as it relates to the entire First Interim Period follows:

2 **1. Case Administration – 010**

3 13. The "Case Administration" category includes services rendered in
4 connection with organization, coordination, and compliance activities. These activities include
5 the planning and coordination among the FTD Fund Committee and its professionals,
6 communications between ST&G and other parties in interest, and internal communications
7 between professionals, regarding the status of the numerous matters encountered in these cases,
8 the maintenance of administrative information and files, the rules governing the FTD Fund
9 Committee, the prevention of conflicts of interest, and other miscellaneous necessary tasks that
10 do not clearly fit within the scope of other activity categories.

11 14. ST&G has diligently monitored the progress of the Chapter 11 Cases and
12 has kept the FTD Fund Committee organized and well-prepared throughout the First Interim
13 Period. In so doing, ST&G has carefully monitored the dockets of the Chapter 11 Cases and
14 maintained an internal case calendar and a comprehensive task list. ST&G also conferred
15 frequently with S&C and Debtors' counsel regarding the status of pending matters.

16 15. ST&G was also responsible for serving nearly all of the pleadings filed by
17 the FTD Fund Committee, and, as such, spent time in this category preparing for and executing
18 service of dozens of pleadings and updating the Master Service List per numerous requests for
19 special notice. Moreover, ST&G has spent time in this category working with S&C to
20 coordinate the filing of pleadings that ST&G has drafted on behalf of the FTD Fund Committee.

21 16. Additionally, members of the ST&G team periodically conducted internal
22 strategy or status conferences, as needed, to coordinate their efforts, update others on the status
23 of pending matters and allocate responsibilities. The frequency of such internal conferences
24 varied depending on the fluctuating demands of the Chapter 11 Cases. Because different matters
25 that arose in the Chapter 11 Cases were assigned to different ST&G attorneys, status conferences
26 were needed to ensure that all tasks were properly assigned and that no duplication of effort
27 occurred. In addition, status and strategy conferences enabled junior attorneys (with low billing
28

1 rates) to coordinate with senior attorneys (with higher billing rates) to ensure that all attorneys
2 were performing services appropriate to their respective billing rates.

3 17. Some of the more time intensive tasks in this category also included
4 assisting in the analysis of the Debtors' schedules and monthly operating reports and analyzing
5 comprehensive memos drafted by S&C pertaining thereto. Another time intensive task within
6 this category is ST&G's participation in weekly conference calls hosted by the Debtors.

7 18. Furthermore, ST&G spent substantial time preparing for, traveling to, and
8 appearing at omnibus hearings.⁵ Members of ST&G prepared for, and appeared at, omnibus
9 hearings typically twice each month. A ST&G professional personally appeared at a particular
10 hearing only when the active participation of that professional with respect to one or more
11 matters at such hearing was required. Preparation for such hearings included reviewing
12 voluminous pleadings, conceptualizing oral arguments, general strategizing, and preparing
13 hearing binders for internal use.

14 19. ST&G spent a total of 318.4 hours rendering services in this category, for
15 which it seeks compensation of \$109,866.00. It should be noted that in order to minimize fees,
16 ST&G utilized associates, paralegals, and law clerks to perform these services to the fullest
17 extent possible.

18 2. Meetings and Communications with Creditors -- 020

19 20. The "Meetings of and Communications with Creditors" category relates
20 primarily to communications with the FTD Fund Committee, individual FTD Fund Committee
21 members, and counsel for the Other Committees. When the subject matter of such
22 communications is not predominantly or specifically attributable to another category, ST&G bills
23 the related time expended to this category.

24 21. During the First Interim Period, ST&G spent a relatively significant
25 amount of time communicating with members of the FTD Fund Committee and other FTD Fund
26 members because of its role as counsel to the FTD Fund Committee. ST&G has organized and
27

28 ⁵ ST&G has not billed the FTD Fund Committee for non-working travel time.

1 attended weekly meetings of the FTD Fund Committee during the First Interim Period, in
2 addition to exchanging frequent telephone calls and correspondence with individual FTD Fund
3 Committee members. ST&G has regularly prepared an agenda and minutes for each FTD Fund
4 Committee meeting. Additionally, ST&G communicated with FTD Fund Committee members
5 (particularly the Chair) as needed in between meetings to discuss matters that required
6 immediate attention and could not be delayed until the next scheduled meeting.

7 22. Similarly, ST&G spent a substantial amount of time during the First
8 Interim Period communicating and attending meetings with the Other Committees' professionals.
9 Such communications were often driven by the FTD Fund Committee's desires to efficiently
10 resolve issues in the Chapter 11 Cases as they arise and to coordinate activities among the
11 various professionals in the Chapter 11 Cases so as to avoid duplication of effort and
12 unnecessary administrative expenses.

13 23. During the First Interim Period, ST&G also attended two general meetings
14 of creditors. First, on May 17, 2006, ST&G attended the first meeting of creditors in Las Vegas,
15 Nevada, along with a member of S&C. Subsequently, on July 12, 2006, a member of ST&G
16 prepared for and attended the Section 341(a) meeting of creditors in Las Vegas, Nevada.

17 24. Additionally, ST&G spent time to protect confidential information
18 received by the FTD Fund Committee by preparing an initial draft of a confidentiality agreement
19 and subsequently negotiating such agreement with the Debtors, the form of which was
20 subsequently used by the Debtors with the Other Committees. In that same vein, ST&G also
21 drafted and negotiated the terms of three separate joint privilege agreements that the FTD Fund
22 Committee entered into with the Debtors, the DTD Fund Committee, and the Direct Lender
23 Committee, respectively.

24 25. In a task that demanded substantial effort during the First Interim Period,
25 ST&G, on behalf of the FTD Fund Committee, spearheaded the effort to negotiate and draft a
26 joint motion seeking an order setting forth procedures by which the Committees could ensure
27 that they were in compliance with the information access requirements 11 U.S.C. §
28 1102(b)(3)(A). Initially, ST&G drafted such motion so as to apply only to the FTD Fund

Committee, but when it became apparent that the Other Committees would likely be requesting similar relief and in accordance with this Court's directive not to duplicate efforts among the Committees, ST&G revised its draft motion to apply to all the Committees. Substantial negotiations followed among the Committees and the Debtors and, ultimately, on June 7, 2006, the FTD Fund Committee filed the "Joint Motion Of Official Committee Of Equity Security Holders Of USA Capital First Trust Deed Fund, LLC, The Official Committee Of Holders Of Executory Contract Rights Through USA Commercial Mortgage Company, The Official Committee Of Equity Security Holders Of USA Capital Diversified Trust Deed Fund, LLC, And The Official Unsecured Creditors' Committee For USA Commercial Mortgage Company Pursuant To 11 U.S.C. §§ 105(a), 107(b), 1102(b)(3)(A) And 1103(e), For Nunc Pro Tunc Order Clarifying Requirement To Provide Access To Information" (the "Joint Information Motion") [Docket no. 521]. In response to several oppositions to the Joint Information Motion, ST&G drafted, coordinated the revision of, and served a joint reply on behalf of the Committees [Docket no. 649]. Following a hearing on June 21, 2006, at which the Court orally granted the Joint Information Motion, ST&G drafted and coordinated the revision of the proposed order granting the Joint Information Motion, which order was entered by the Court on June 27, 2006 [Docket no. 803].

26. Under the order granting the Joint Information Motion, the FTD Fund Committee was required to establish and maintain a website providing access to certain information about the Chapter 11 Cases. ST&G was primarily responsible for developing the format and content of the FTD Fund Committee website, and, since the website has gone live, is responsible for maintaining website, which includes drafting summaries of hearings, explaining key motions, updating the frequently asked questions section, and responding to FTD Fund Member inquiries.

27. ST&G spent a total of 364.6 hours rendering services in this category, for which it seeks compensation in the amount of \$169,906.00.

3. General Business Operations – 030

28. Advocating for the interests of the FTD Fund Members has required

1 ST&G's limited involvement in some of the Debtors' general business operations. Among other
 2 things, ST&G spent time in this category analyzing various agreements that are critical to the
 3 operations of the FTD Fund, including the servicing agreement between the FTD Fund and
 4 USACM, the FTD Fund's operating agreement, and the FTD Fund's subscription agreements.
 5 Additionally, ST&G dedicated efforts to understanding the general business model of the
 6 Debtors and how the Debtors' management planned to operate the Debtors during the Chapter 11
 7 Cases. More recently, ST&G has conferred internally, with members of the FTD Fund
 8 Committee and with the Debtors regarding the need for the Debtors to provide statements to
 9 investors and the form such statements should take.

10 29. ST&G spent a total of 14.1 hours rendering services in this category, for
 11 which it seeks compensation in the amount of \$7,595.00.

12 **4. Fee/Employment Applications – 040**

13 30. This category includes services rendered in connection with preparing
 14 and/or reviewing applications to employ professionals in the Chapter 11 Cases and preparation
 15 of applications by such professionals. During the First Interim Period, ST&G prepared the
 16 ST&G Employment Application, the amendment thereto, and the order granting the ST&G
 17 Employment Application as amended.⁶ Additionally, ST&G assisted S&C in the preparation of
 18 pro hac vice applications and prepared monthly fee statements on its own behalf. Subsequently,
 19 ST&G also worked with Debtors' counsel to draft an application by which the FTD Fund will
 20 request that the Court employ ST&G as special counsel to the FTD Fund in connection with an
 21 interpleader action brought by USACM in which the FTD Fund is a defendant that is seeking to
 22 bring approximately \$100,000.00 into the FTD Fund estate.

23 31. ST&G also assisted in the FTD Fund Committee in selecting a firm to act
 24 as financial advisor to the FTD Fund Committee. Once the FTD Fund Committee elected to
 25 employ Alvarez & Marsal LLC ("A&M") as its financial advisor, ST&G assisted in the
 26 preparation of A&M's retention documents, employment application, and employment order.

27
 28 ⁶ ST&G has not billed for any time spent negotiating the joint retention of ST&G by the three
 Investor Committees.

32. Additionally, ST&G spent time in this category reviewing the employment applications and terms of retention of the other professionals in the Chapter 11 Cases. To the extent that the FTD Fund Committee elected to respond to or oppose any employment application, time was billed in the "Fee/Employment Objections" category, which category is summarized below.

33. Also included in this category is time related to analyzing the "Debtors' Application for Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals" [Docket no. 570], assisting the DTD Fund Committee in drafting a joint response to such motion, and in negotiating the proposed interim compensation procedures with the Debtors.

34. To minimize fees, most of the time billed in this category on account of reviewing and preparing employment applications and fee statements was incurred by associates. ST&G spent a total of 78.6 hours rendering services in this category, for which it seeks compensation in the amount of \$33,024.50.

5. Fee/Employment Objections – 050

35. During the First Interim Period, ST&G closely reviewed the employment applications of the professionals in the Chapter 11 Cases and, when necessary, provided comments early to engage the Debtors and/or applicable committee in a process aimed at eliminating the need for the FTD Fund Committee to file formal objections. Although these efforts do not appear on the Court's docket, they have reduced the total fees incurred by the Debtors' estates. In the few instances in which professional applicants did not amend the proposed terms of their employment or otherwise alleviate the FTD Fund Committee's concerns, ST&G prepared oppositions and/or responses to the employment applications of such professionals. In particular, ST&G drafted limited oppositions to the employment applications of (1) Hilco Real Estate LLC as the Debtors' real estate appraiser [Docket no. 379] and (2) Gordon & Silver, Ltd. as counsel to the Direct Lender Committee [Docket no. 447].

36. In another example of the FTD Fund Committee working together with the Other Committees to streamline efforts and minimize costs when possible, ST&G drafted a

1 joint omnibus response to the continued employment of the Debtors' professionals on behalf of
2 the FTD Fund Committee, the DTD Fund Committee, and the Direct Lender Committee [Docket
3 no. 944].

4 37. ST&G also spent time in this category analyzing and responding to
5 objections to the ST&G Employment Application.

6 38. To minimize fees, most of the time billed in this category on account of
7 objecting to employment applications was incurred by associates. ST&G spent a total of 45.1
8 hours rendering services in this category, for which it seeks compensation in the amount of
9 \$16,452.00.

10 **6. Financing – 060**

11 39. This category includes services rendered by ST&G in analyzing the
12 Debtors' financing. During the First Interim Period, the Debtors sought approval of three
13 different cash management budgets. ST&G, on behalf of the FTD Fund Committee, evaluated
14 each budget filed by the Debtors and discussed potential deficiencies with the FTD Fund
15 Committee's financial advisor. After consultation with counsel for the DTD Fund Committee,
16 ST&G took the lead in preparing joint objections to each of these three budgets. In response to
17 the objections raised by the Fund Committees, the Debtors revised their budgets to reflect the
18 fact that no monies that were collected on account of "pre-paid interest" would be used by the
19 Debtors without a further Court order. In addition, the Debtors also revised their budgets to
20 reflect appropriate accruals and payments to professionals of the Debtors' estates, among other
21 line items.

22 40. Also, during the First Interim Period, the Debtors sought to obtain debtor-
23 in-possession financing ("DIP Financing"). In connection therewith, the Debtors first requested
24 Court authority to pay the due diligence expenses of various parties who had expressed an
25 interest in providing the Debtors with DIP Financing. ST&G, on behalf of the FTD Fund
26 Committee, opposed this relief and the Court did not allow the Debtors to pay these due
27 diligence expenses. The Debtors, then, filed a motion seeking Court approval of DIP Financing.
28 ST&G, working together with S&C, filed an opposition to this motion, in which it argued that

1 the Debtors had yet to prove any need for DIP Financing and had failed to finalize any terms of
 2 the proposed DIP Financing. The Court did not approve the Debtors' proposed DIP Financing
 3 and continued the hearing thereon. The Debtors subsequently abandoned their efforts to seek
 4 approval of DIP Financing.

5 41. ST&G spent a total of 71.3 hours rendering services in this category, for
 6 which it seeks compensation in the amount of \$33,668.50.

7 **7. Claims Administration & Objections – 070**

8 42. The "Claims Administration & Objections" category refers to services
 9 ST&G rendered in its analysis of claims against the FTD Fund and in filing objections to such
 10 claims. During the First Interim Period, the ST&G prepared two omnibus claim objections
 11 [Docket nos. 1064 and 1066] that were subsequently filed on August 1, 2006, by which the FTD
 12 Fund Committee objected to 27 claims totaling approximately \$1.6 million. ST&G also
 13 prepared a claim objection to a litigation claim filed against the FTD Fund for \$20 million
 14 [Docket no. 1068].

15 43. To minimize fees, nearly all of the time billed in this category was
 16 incurred by associates and paralegals. ST&G spent a total of 43.4 hours rendering services in
 17 this category, for which it seeks compensation in the amount of \$11,685.50.

18 **8. Asset Analysis and Recovery – 080**

19 44. This category includes services rendered in connection with ST&G's
 20 investigation and review of the assets of the FTD Fund and, at times, the other Debtors, to the
 21 extent such activities did not at the time relate to potential litigation. One of the tasks to which
 22 ST&G devoted substantial time in this category was with respect to the collection and analysis of
 23 information relative to the FTD Fund loan portfolio in order to assess the size and nature of the
 24 FTD Fund's assets. Similarly, ST&G spent time in this category discussing proposals to provide
 25 additional funding to certain borrowers with the FTD Fund Committee, as well as the Debtors
 26 and the Other Committees.

27 45. Additionally, ST&G dedicated effort in this category to reviewing,
 28 analyzing, and, when necessary, responding both formally and informally to, among other

1 motions and related pleadings, the "Countermotion for Sequestering or Alternatively for Release
 2 of Funds and for Revocation of Power of Attorney" [Docket no. 58], the "Debtors' Motion to
 3 Temporarily Hold Funds Pending a Determination of the Proper Recipients" [Docket no. 173],
 4 the "Debtors' Motion for Order Approving Agreement with Investment Partners" [Docket no.
 5 575], and the "Motion for Authority to Forbear and Provide Further Funding for Certain
 6 Outstanding Loans" [Docket no. 592]. In particular, ST&G sought to determine the impact that
 7 such motions, if granted, would have on the FTD Fund's assets and, in turn, worked diligently to
 8 ensure that the relief requested, if granted, would either benefit or have no impact upon the FTD
 9 Fund's assets.

10 46. ST&G spent a total of 118.3 hours rendering services in this category, for
 11 which it seeks compensation in the amount of \$51,367.00.

12 **9. Asset Disposition – 090**

13 47. Within this category, ST&G analyzed various documents, pleadings, data,
 14 and correspondence and communicated frequently with the FTD Fund Committee, the Debtors,
 15 and the Other Committees concerning the potential disposition of the Debtors' assets. Most
 16 services rendered by ST&G within this category during the First Interim Period involved issues
 17 pertaining to the treatment of principal and interest payments received by USACM after the
 18 Petition Date. Specifically, ST&G spent substantial time researching how such funds should be
 19 treated under applicable caselaw, analyzing how the treatment of the funds would affect the FTD
 20 Fund and the FTD Fund Members, and discussing various alternatives for the treatment of the
 21 funds with the FTD Fund Committee, its professionals, the Debtors, and the Other Committees.
 22 On behalf of the FTD Fund Committee, ST&G shared portions of its research with the Debtors
 23 so as to assist the Debtors in drafting the "Debtors' Motion to Distribute Funds and to Grant
 24 Ordinary-Course Releases and Distribute Proceeds" (the "Motion to Distribute") [Docket no.
 25 847]. ST&G was also instrumental in negotiating with the Debtors to ensure that the Motion to
 26 Distribute included a request that distributions to FTD Fund Members, as opposed to just the
 27 FTD Fund, be authorized. In fact, ST&G, along with counsel to the DTD Fund committee, took
 28 primary responsibility for drafting the argument section on making distributions available to the

1 fund members. Following the filing of the Motion to Distribute, ST&G drafted a brief in
 2 response to the Motion to Distribute and analyzed the numerous responsive pleadings that other
 3 parties in interest filed with respect to the Motion to Distribute. Subsequently, in order to
 4 emphasize the importance to the FTD Fund Committee and its constituency of the relief
 5 requested in the Motion to Distribute, ST&G drafted a reply brief addressing the various
 6 responsive pleadings that had been filed in opposition to the Motion to Distribute.

7 48. Time spent in this category also includes ST&G's efforts in analyzing and
 8 strategizing the ramifications of a potential sale of the FTD Fund's portfolio.

9 49. To minimize fees, most of the time billed in this category was incurred by
 10 associates. ST&G spent a total of 142.3 hours rendering services in this category, for which it
 11 seeks compensation in the amount of \$51,246.00.

12 **10. Plan/Disclosure Statement – 100**

13 50. The "Plan/Disclosure Statement" category relates to services ST&G
 14 rendered both in participating in the plan process and in planning a resolution to the Chapter 11
 15 Cases that will achieve an optimal recovery for the FTD Fund Members. ST&G has dedicated
 16 substantial resources to identifying and analyzing exit strategies and plan structures that would
 17 net the greatest return to FTD Fund Members. To that end, ST&G has expended a relatively
 18 significant amount of time analyzing prospective plan structures, communicating the resulting
 19 theories to the FTD Fund Committee, and evaluating potential exit strategies. These efforts have
 20 entailed extensive research and collaboration with the FTD Fund Committee's other
 21 professionals. During the First Interim Period, ST&G has also participated in several meetings
 22 with other constituencies in the Chapter 11 Cases regarding potential options for resolving the
 23 Chapter 11 Cases, including meetings on July 11, 2006 and July 20, 2006.

24 51. ST&G spent a total of 88.4 hours rendering services in this category, for
 25 which it seeks compensation in the amount of \$45,388.00.

26 **11. Employee Benefits/Plans – 110**

27 52. No time was billed to this category.

28 **12. Litigation – 120**

1 53. ST&G provided numerous services to the FTD Fund Committee in the
2 Litigation category during the First Interim Period. Among the tasks that necessitated the most
3 time from ST&G in this category were (1) working with the FTD Fund Committee and the Other
4 Committees to create a due diligence list; and (2) exploring various causes of action that the FTD
5 Fund Committee could pursue to maximize the recovery to FTD Fund Members. The latter task
6 involved extensive legal research and analysis of data and documents.

7 54. ST&G also spent time in this category analyzing and discussing with the
8 FTD Fund Committee the complaint to recover property filed by Wells Fargo [Docket no. 733],
9 the dischargeability complaint filed by Spectrum Financial Group and Roland Weddell [Docket
10 no. 877], and the interpleader complaint filed by USACM [Docket no. 965].

11 55. To minimize fees, most of the time billed in this category was incurred by
12 associates. ST&G spent a total of 64.4 hours rendering services in this category, for which it
13 seeks compensation in the amount of \$29,212.00.

14 13. Relief from Stay Proceedings – 125

15 56. Time spent in this category represents the review, analysis, and response
16 to the several motions for relief from the automatic stay filed by Scott Canepa, certain direct
17 lenders represented by Jones Vargas, Spectrum Financial Group, and Standard Property
18 Development, LLC.

19 57. ST&G spent a total of 9.6 hours rendering services in this category, for
20 which it seeks compensation in the amount of \$3,928.00.

21 **III. REIMBURSEMENT OF EXPENSES**

22 58. As is more fully reflected on the invoices as Exhibit "2" and expressly
23 incorporated herein by reference, ST&G incurred \$32,336.51 in expenses in connection with its
24 performance of professional services on behalf of the FTD Fund Committee during the First
25 Interim Period. ST&G bills for expenses, including in-house photocopies (\$0.25 per page),
26 facsimile transmissions (\$0.50 per page), postage (actual costs), coach airfare (actual cost),
27 airport transportation (actual cost), computer research (actual cost), hotel accommodations in Las
28 Vegas when attending hearings and/or case-related meetings (actual cost), and long distance

1 telephone charges (actual cost). Such expenses were actually and necessarily incurred by ST&G,
 2 and all expenses for which ST&G seeks reimbursement were incurred in the most economical
 3 method available under the circumstances.

4 IV. REQUEST FOR INTERIM COMPENSATION

5 A. Legal Standard.

6 59. Bankruptcy Code section 330(a)(1) allows the Court to award to
 7 professionals employed pursuant to section 1103:

8 (A) reasonable compensation for actual, necessary services
 9 rendered by the . . . professional person, or attorney and by
 10 any paraprofessional person employed by any such person;
 and

11 (B) reimbursement for actual, necessary expenses.

12 11 U.S.C. § 330(a)(1)(B). In determining the amount of reasonable compensation to be awarded,
 13 section 330 directs this Court to consider the nature, extent and value of the services by taking
 14 into account all relevant factors which include:

15 (i) the time spent on such services; (ii) the rates charged for such
 16 services; (iii) whether the services were necessary in the
 17 administration of, or beneficial at the time at which the services
 were rendered toward the completion of, a case under the
 18 Bankruptcy Code; (iv) whether the services were performed within
 a reasonable amount of time commensurate with the complexity,
 19 importance, and nature of the problem, issue or task addressed; and
 (v) whether the compensation is reasonable based upon the
 20 customary compensation charged by comparably skilled
 practitioners in cases other than cases under [title 11].

21 11 U.S.C. § 330(a)(3).

22 60. In addition, section 330 prohibits the Court from allowing compensation
 23 for "unnecessary duplication of services" or "services that were not . . . reasonably likely to
 24 benefit the debtor's estate . . . or . . . necessary to the administration of the case." 11 U.S.C.
 25 § 330(a)(4)(A).

26 61. In determining the award of compensation, courts generally consider "the
 27 nature, the extent, and the value of the professional's services". In re Auto Parts Club, Inc., 211
 28 B.R. 29, 33 (B.A.P. 9th Cir. 1997). "The primary method used to determine a reasonable

attorney fee in a bankruptcy case is to multiply the number of hours expended by an hourly rate." In re Yermakov, 718 F.2d 1465, 1471 (9th Cir. 1983); In re Powerline Oil Co., 71 B.R. 767, 772 (B.A.P. 9th Cir. 1986) (holding that the fees calculated by multiplying the number of hours by the hourly rate creates a presumption of reasonableness); In re Montgomery Drilling Co., 121 B.R. 32, 39 (Bankr. E.D. Cal. 1990).

62. Professional services rendered by ST&G during the First Interim Period have been itemized by professional, noting each professional's rate, number of hours and total compensation requested. See Exhibit "3." Each duty and task performed by ST&G has been performed by the attorney most qualified to render such services at his or her ordinary hourly rate in the most efficient manner as required by the circumstances of these cases. ST&G reasonably expended this time in order to adequately represent and protect the interests of the FTD Fund Committee in these cases.

B. Reasonableness of Compensation Requested

63. ST&G requests compensation for attorneys and paralegals at their respective customary hourly rates. The hourly rate of each professional who rendered services in connection with the Chapter 11 Cases during the First Interim Period is set forth in Exhibit "3." ST&G regularly conducts a survey of hourly rates charged by law firms that routinely work in large and complex chapter 11 cases. Based on the results of the most recent survey, ST&G believes that the hourly rates charged for its members, paralegals, and law clerks are reasonable and competitive with the hourly rates charged by law firms of comparable size and quality that have similar expertise and experience level as ST&G.

64. ST&G submits that, based upon the factors to be considered pursuant to section 330 and section 331 of the Bankruptcy Code, the quality of the services provided and the results that have been achieved to date justify allowance of the amounts requested.

C. Non-Duplication

65. Due to the sensitive nature of bankruptcy matters, it is not always possible to delegate authority to persons with lower billing rates. However, ST&G has worked to avoid duplication. Where more than one ST&G attorney attended a meeting or hearing, such

attendance was not a duplication of effort, but was necessary to adequately represent the interests of the FTD Fund Committee. Moreover, the services provided by ST&G during the First Interim Period were not duplicative of the services provided by any of the Committee's other professionals: ST&G provided advice and services with respect to bankruptcy/reorganization matters, A&M provided financial advice, and S&C provided bankruptcy related services and guidance and insight on legal, economic and contextual matters that are either unique to this District or that ST&G and S&C had determined in advance were to be handled primarily by S&C.

D. Novelty And Difficulty of Legal Questions/Skill Requisite to Performing Legal Services

66. Because of the complex questions of law and fact involved in these proceedings, a high degree of skill is necessary to represent adequately the interests of the FTD Fund Committee. Expeditious action by ST&G has been necessary to maximize and preserve the assets of the estate for the benefit of unsecured creditors. Because of the complex nature of the transactions that will be involved in resolving the Chapter 11 Cases and the relationships, and the transactions that provide the factual background of the Debtors' current situation, it has been necessary that ST&G exercise considerable skill and expertise in addressing the issues that have already manifested and in planning for the issues that will foreseeably arise.

E. Experience, Reputation And Ability Of The Attorneys

67. ST&G has an excellent nation-wide reputation based upon its experienced and capable group of professionals. ST&G was selected as the FTD Fund Committee's counsel due to the experience and expertise of its attorneys in the areas of bankruptcy and other insolvency-related law. ST&G has represented creditors, debtors, creditors' committees and trustees in insolvency cases and adversary proceedings throughout the United States of America, and maintains an active insolvency practice. The professional services rendered have been performed by attorneys with broad expertise and a high level of skill in the areas for which they have been employed. A summary of the experience and qualifications of the ST&G professionals who rendered substantial services to the FTD Fund Committee during the First

1 Interim Period is attached hereto as Exhibit "4." Such experience and expertise has enabled this
2 case to progress in an efficient manner.

3 68. ST&G has not entered into any arrangement or agreement with any person
4 or entity with respect to the sharing of fees and expenses for which ST&G is seeking
5 compensation and reimbursement as set forth in this Application, except as permitted by section
6 504(b)(1) of the Bankruptcy Code. ST&G has not entered into any agreement, express or
7 implied with any other party in interest, or any attorney or other party in interest for the purpose
8 of fixing fees or compensation and reimbursement of expenses incurred. As of the filing of this
9 Application, ST&G has not received any payment for its professional services nor any
10 reimbursement of its expenses during the pendency of the Chapter 11 Cases.

11 69. ST&G submits that, based upon the factors to be considered pursuant to
12 section 330 and section 331 of the Bankruptcy Code, the quality of the services provided, and the
13 results that have been achieved to date more than justify allowance of the amounts requested.
14 The services of ST&G have resulted in significant benefit to the FTD Fund Committee, the FTD
15 Fund Members, the FTD Fund estate, and its creditors.

16 70. Attorneys performing services in a bankruptcy proceeding should receive
17 compensation equal to that received by attorneys specializing in other areas. See, e.g., id. (citing
18 In re UNR Indus., Inc., 986 F.2d 207, 209-210 (7th Cir. 1993); In re Baldwin United Corp., 36
19 B.R. 401 (Bankr. S.D. Ohio 1984); In re Wilson Foods Corp., 36 B.R. 317 (Bankr. D. Okla.
20 1984); In re Atlas Automotive Inc., 27 B.R. 820, 822 (Bankr. E.D. Mich. 1983).

21 71. In an effort to eliminate fees for inefficient or unnecessary services, ST&G
22 has voluntarily written off 375.7 hours of time that it would otherwise have billed at its
23 customary rates in the total amount of \$128,871.50 plus costs in the amount of \$4,206.95. In
24 particular, the majority of the services that have been voluntarily written off include time related
25 to ST&G's initial efforts to be employed by all three Investor Committees. In addition, ST&G
26 has written off certain attorney time where multiple attorneys attended the same meeting or
27 hearing, which did not require the participation of all attorneys present.

V. CONCLUSION

72. WHEREFORE, ST&G respectfully requests that the Court enter an order:

(i) Approving this Application;

(B) Authorizing \$563,338.50 in fees and \$32,336.51 in costs on an interim basis;

(C) Authorizing and directing the FTD Fund to pay the full amount of fees and/or expenses incurred by ST&G during the First Interim Period; and

(D) Providing such other and further relief as the Court deems just and appropriate.

Respectfully submitted this 31st day of August, 2006.



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